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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,049	09/22/2003	Julie Theel	10639/1	7272

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BROWN RAYSMAN MILLSTEIN FELDER & STEINER, LLP
1880 CENTURY PARK EAST
12TH FLOOR
LOS ANGELES, CA 90067

EXAMINER

LOWEN, ALYSSA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/668,049	Applicant(s) THEEL, JULIE	
	Examiner Alyssa M. Lowen	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-54 is/are pending in the application.
- 4a) Of the above claim(s) 31-47 and 48-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-30 and 41-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 21-30 and 41-47 in the reply filed on 6/16/06 is acknowledged. However, since no arguments were presented the requirement is still deemed proper and is therefore made FINAL.
2. Claims 31-40 and 48-54 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/16/06.

Priority

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

This application is claiming the benefit of prior-filed nonprovisional application No. 10/154217 under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior application is required. Since the applications are not copending, the benefit claim to the prior-filed nonprovisional application is improper. Applicant is required to delete the reference to the prior-filed application from the first sentence(s) of the specification, or the application data sheet, depending on where the reference was originally submitted, unless applicant can establish copendency between the applications.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the connection members being magnets and snaps must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 30 is objected to because of the following informalities: The claim is dependent on claim 1 which was canceled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 21-24, 28-29, 41-44 and 46-47 rejected under 35 U.S.C. 102(b) as being anticipated by VanNatter (5553570). VanNatter discloses a pet toy device for a house pet such as a dog having a main member (32, 34) with an exterior surface and an interface surface (Fig. 2) wherein the main member exterior surface can be non-destructively gripped by a house pet using its mouth and paws. The main member interface surface includes a first portion of a snap connector (Fig. 2). The toy further includes a secondary member (32,34) with an exterior surface that can be non-destructively gripped by a house pet using its mouth and paws (Fig. 2). The secondary member has an interface surface that includes a second portion of a snap connector that mates with a corresponding first portion of the snap connector on the main member interface surface (Fig. 2). The main and secondary members are shaped and sized to prevent swallowing by a house pet (Fig. 2). The interface surfaces of the main member and the interface surfaces of the secondary members are attachable by a human to create an attached toy state via the snap connectors which could be non-destructively detached by a house pet using its mouth and paws to create a detached toy state by disconnecting the snap connectors which could then be reattached by a human after being separated (column 2 line 36). The exterior surfaces main and secondary

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members would be sufficiently durable to withstand biting and chewing by a house pet since it is intended to be used as a pet toy. The interface surfaces of the main member and the secondary members are attached securely enough via the snap connectors to require an amount of force to detach the secondary member from the main member (column 4 lines 19-25). The first portion of a snap connector includes a protrusion (38) and the second portion of a snap connector includes a mating socket portion (36), where the first portion of the snap connector is shaped and sized to snap into the second portion of the snap connector attaching the main member to the secondary member (Fig. 2). The first portion of a snap connector includes a socket portion (36) and the second portion of a snap connector includes a mating protrusion (38), where the first portion of the snap connector is shaped and sized to snap onto the second portion of the snap connector attaching the main member to the secondary member (Fig. 2).

8. Claims 21 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Russell (5195917). Russell discloses a toy that could be used by a house pet having a main member (12) with an exterior surface and an interface surface (Fig. 2) wherein the main member exterior surface could be non-destructively gripped by a house pet using its mouth and paws. The main member interface surface includes a first portion of a hook and loop fastener (column 1 lines 27-37). The toy further includes secondary members (Fig. 2) with exterior surfaces that could be non-destructively gripped by a house pet using its mouth and paws. The secondary member has an interface surface that includes a second portion of a hook and loop connector that mates with a

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corresponding first portion of the snap connector on the main member interface surface (Fig. 1). The main and secondary members are shaped and sized to prevent swallowing by a house pet (Fig. 2). The interface surfaces of the main member and the interface surfaces of the secondary members are attachable by a human to create an attached toy state via the snap connectors which could then be detached by a house pet using its mouth and paws to create a detached toy state by disconnecting the elements which could then be reattached by a human after being separated (Figs. 1 & 2).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 25 and 45 rejected under 35 U.S.C. 103(a) as being unpatentable over VanNatter. The device of VanNatter discloses the basic inventive concept, substantially as claimed with the exception of the device being made of denim, plush, corduroy or rubber. The examiner notes that mere selection of known materials as recited in claims 25 and 45, on the basis of suitability for the intended use would be entirely obvious. See in re Leshin, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one of ordinary skill in the art to provide VanNatter with the materials recited in the claims in order to use known materials suitable for the intended use.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russell and Alonso (3375604). Russell discloses the basic inventive concept substantially as

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claimed with the exception of the main and secondary members being attached using magnets. Alonso discloses a figure toy having separable parts held together with magnetic means (abstract). It would have been obvious to one of ordinary skill in the art from the teaching of Alonso to have the parts connected with magnets since it would provide an easy and simple means of connecting and disconnecting a toy figure.

12. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over VanNatter and Snook (6601539). VanNatter discloses the basic inventive concept with the exception of a cord connecting the members. Snook discloses a dog toy that has separate elements (100, 200) connected by a cord (Fig. 2). It would have been obvious to one of ordinary skill in the art from the teaching of Snook to include a cord attaching the members together in order to increase the value of the toy since it could also be used as a pull toy (Fig. 3).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AML


EUGENE KIM
SUPERVISORY PATENT EXAMINER